

## Page 1 of 2

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 4324 Silverwood Trail, Keller, Tarrant County

**TYPE OF OPERATION:** irrigation system installation

**SMALL BUSINESS:**       X   Yes      No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired October 26, 2009. No comments were received.

### CONTACTS AND MAILING LIST:

**TCEQ Attorney:** Ms. Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Keith Frank, Waste Enforcement Section, MC 128, (512) 239-1203

**TCEQ Regional Contact:** Mr. Sam Barrett, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5903

**Respondent:** Mr. Javier Godoy, 5909 Ash Flat Drive, Fort Worth, Texas 76131

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 12, 2009</p> <p><b>Date of NOE Relating to this Case:</b> March 23, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed June 15, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The wrapper sent by certified mail was returned "unclaimed." The first class mail has not been returned. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>LII:</b> Failed to include the licensed irrigator name, license number, and the required TCEQ language on all written contracts, estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system [30 TEX. ADMIN. CODE §§ 344.94(a) and 344.94(b)<sup>1</sup>].</p>	<p><b>Total Assessed:</b> \$131</p> <p><b>Total Deferred:</b> \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$131</p> <p>This is a Default Order. The Respondent has not actually paid the administrative penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification:</b> N/A</p> <p><b>Person Compliance History Classification:</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"><li>1. Within 30 days, develop and implement procedures to ensure that all required information and language is included on all written contracts, estimates, proposals, bids and invoices relating to the installation or repair of irrigation systems.</li><li>2. Within 45 days, submit written certification demonstrate compliance with Ordering Provision No. 1.</li></ol>

<sup>1</sup> Currently 30 TEX. ADMIN. CODE §§ 344.71(a) and 344.71(b).



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	23-Feb-2009	Screening	26-Feb-2009	EPA Due	
	PCW	19-Mar-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Javier Godoy
Reg. Ent. Ref. No.	RN103365946
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37212	No. of Violations	1
Docket No.	2009-0265-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Graham
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$125</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>5.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$6</b>
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Notes: Enhancement for one NOV with the same or similar violation.

<b>Culpability</b>	<b>No</b>	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$4  
Approx. Cost of Compliance: \$100

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$131</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$131**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$131</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$131</b>
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Screening Date 26-Feb-2009

Docket No. 2009-0265-LII-E

PCW

Respondent Javier Godoy

Policy Revision 2 (September 2002)

Case ID No. 37212

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103365946

Media [Statute] Irrigators

Enf. Coordinator Michael Graham

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with the same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

<b>Screening Date</b> 26-Feb-2009		<b>Docket No.</b> 2009-0265-LII-E		<b>PCW</b>
<b>Respondent</b> Javier Godoy		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37212		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN103365946				
<b>Media [Statute]</b> Irrigators				
<b>Enf. Coordinator</b> Michael Graham				
<b>Violation Number</b> 1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 344.71(a) and 344.71(b) [previously 30 Tex. Admin. Code § 344.94(a) and 344.94(b)]			
<b>Violation Description</b>	Failed to include the licensed irrigator name, license number, and the required TCEQ language, on all written contracts, estimates, proposals, bids and invoices relating to the installation or repair of an irrigation system. Specifically, the documents associated with the installation of an irrigation system at the Site did not have the required language and information.			
<b>Base Penalty</b>		\$2,500		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Major	Moderate	Minor	
	Actual	Potential	Percent	0%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	Actual	Potential	Percent	5%
<b>Matrix Notes</b>	30 to 70 percent of the rule was not met.			
<b>Adjustment</b>		\$2,375		
		\$125		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<b>Number of violation days</b>		
1		14		
mark only one with an x	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
<b>Violation Base Penalty</b>		\$125		
One single event is recommended based on the documentation of the violation during the February 12, 2009 record review.				
<b>Good Faith Efforts to Comply</b>		0.0% Reduction		\$0
		Before NOV    NOV to EDRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A		x (mark with x)		
<b>Notes</b>		The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>		\$125		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$4		<b>Violation Final Penalty Total</b> \$131
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$131

**Economic Benefit Worksheet**

Respondent Javier Godoy

Case ID No. 37212

Reg. Ent. Reference No. RN103365946

Media Irrigators

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	12-Feb-2009	26-Oct-2009	0.70	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that all language, as specified by 30 TEX. ADMIN. CODE § 344.71(a) and 344.71(b), is included on all written contracts, estimates, proposals, bids and invoices relating to the installation or repair of irrigation systems. The Date Required is the date of the record review. The Final Date is the expected date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601886427 GODOY, JAVIER Classification: Rating:  
Regulated Entity: RN103365946 GODOY, JAVIER Classification: Site Rating:  
ID Number(s): LANDSCAPE IRRIGATION LICENSING LICENSE LI0007455  
Location: 5909 ASH FLAT DR, FORT WORTH, TX, 76131  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: February 27, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 26, 2004 to February 26, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michael Graham Phone: 806-796-7635

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/23/2008 (686776)

Self NO

Classification: Moderate

Report?

Citation: 30 TAC Chapter 344, SubChapter F 344.94(b)

Description: Failure by a licensed irrigator to include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087." on all written contracts and bills to install irrigation systems.

Self NO

Classification: Moderate

Report?

Citation: 30 TAC Chapter 344, SubChapter F 344.94(a)

Description: Failure by a licensed irrigator to specify their name, license number, business address and telephone number, date the agreement was signed by each party, total agreed price, the design number or a copy of the design, on the agreement to install an irrigation system and the name, mailing address and telephone number of the Commission.

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JAVIER GODOY,  
RN103365946**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2009-0265-LII-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCCUPATIONS CODE ch. 1903 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Javier Godoy ("Mr. Godoy").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Mr. Godoy is a licensed irrigator at 5909 Ash Flat Drive, Fort Worth, Tarrant County, Texas. Mr. Godoy installed an irrigation system at 4324 Silverwood Trail in Keller, Tarrant County, Texas (the "Site").
2. Mr. Godoy holds and maintains landscape irrigator license No. 7455, issued by the TCEQ on May 30, 2008, and sells, designs, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Godoy is subject to TCEQ jurisdiction pursuant to TEX. OCCUPATIONS CODE ch. 1903, TEX. WATER CODE chs. 7 and 37 and the rules of the Commission.
3. During a record review conducted on February 12, 2009, a TCEQ Central Office investigator documented that Mr. Godoy failed to include the licensed irrigator name, license number, and the required TCEQ language, on all written contracts, estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system. Specifically, the



documents associated with the installation of an irrigation system at the Site did not have the required language and information.

4. Mr. Godoy received notice of the violation on or about March 28, 2009.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Javier Godoy" (the "EDPRP") in the TCEQ Chief Clerk's office on June 15, 2009.
6. By letter dated June 15, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Godoy with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Godoy received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Godoy received notice of the EDPRP, provided by the Executive Director. Mr. Godoy failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Godoy is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCCUPATIONS CODE ch. 1903 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 3, Mr. Godoy failed to include the licensed irrigator name, license number, and the required TCEQ language, on all written contracts, estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system. Specifically, the documents associated with the installation of an irrigation system at the Site did not have the required language and information, in violation of 30 TEX. ADMIN. CODE §§ 344.94(a) and 344.94(b)<sup>1</sup>.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Godoy with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

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<sup>1</sup> Currently 30 TEX. ADMIN. CODE §§ 344.71(a) and 344.71(b).

4. As evidenced by Finding of Fact No. 7, Mr. Godoy failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Godoy and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Godoy for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of one hundred thirty one dollars (\$131.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Godoy is assessed an administrative penalty in the amount of one hundred thirty one dollars (\$131.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Mr. Godoy's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Javier Godoy; Docket No. 2009-0265-LII-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Godoy shall undertake the following technical requirements:

- a. Within 30 days of the effective date of this Order, Mr. Godoy shall develop and implement procedures to ensure that all required information and language, as specified by 30 TEX. ADMIN. CODE §§ 344.71(a) and 344.71(b), is included on all written contracts, estimates, proposals, bids and invoices relating to the installation or repair of irrigation systems.
- b. Within 45 days after the effective date of this Order, Mr. Godoy shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No.2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Godoy shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Ms. Sandi Mota, Landscape Irrigation, MC 178  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.

4. The provisions of this Order shall apply to and be binding upon Mr. Godoy. Mr. Godoy is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Mr. Godoy fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Godoy's failure to comply is not a violation of this Order. Mr. Godoy shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Godoy shall notify the Executive Director within seven days after Mr. Godoy becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Godoy shall be made in writing to the Executive Director. Extensions are not effective until Mr. Godoy receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Godoy if the Executive Director determines that Mr. Godoy has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF SHARESA Y. ALEXANDER**

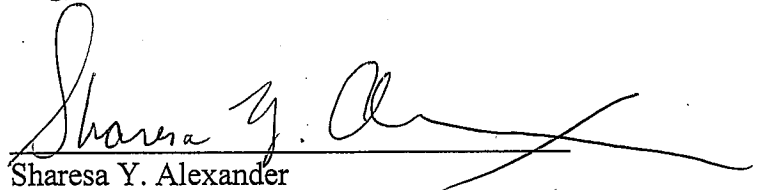
STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

"My name is Sharesa Y. Alexander. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

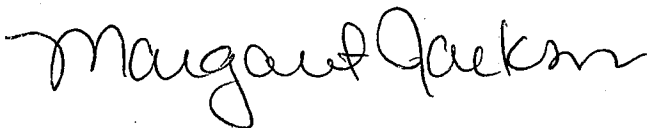
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Javier Godoy" (the "EDPRP") was filed with the Office of the Chief Clerk on June 15, 2009.

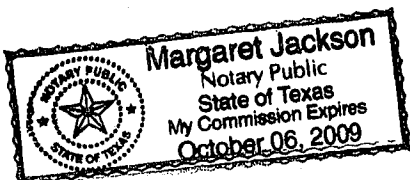
I sent the EDPRP to Mr. Godoy at its his last known address on June 15, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Godoy received notice of the EDPRP. Mr. Godoy failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference".



Sharesa Y. Alexander  
Attorney  
Texas Commission on Environmental Quality

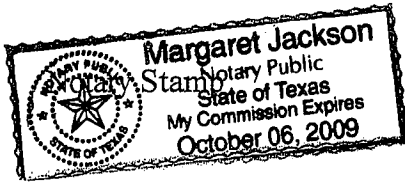




Affidavit of Sharesa Y. Alexander  
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Before me, the undersigned authority, on this day personally appeared Sharesa Y. Alexander, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 1 day of September A.D., 2009.



Margaret Jackson  
Notary Signature